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*Counsel to KSK Scottsdale Mall LP*

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
RICHMOND DIVISION**

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In re:

CIRCUIT CITY STORES, INC., *et al.*,  
  
Debtors.

Case No. 08-35653-KRH  
Chapter 11  
Jointly Administered

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**RESPONSE AND OPPOSITION TO LIQUIDATING TRUST'S TWENTY-  
EIGHTH OMNIBUS OBJECTION TO LANDLORD CLAIMS SEEKING TO  
REDUCE CLAIM 9245 FILED BY  
KSK SCOTTSDALE MALL LP**

KSK Scottsdale Mall LP ("KSK"), by counsel, having filed a proof of claim identified and included in the above captioned *Liquidating Trust's Twenty-Eighth Omnibus Objection to Landlord Claims* (the "Objection"), does hereby oppose and respond, as set forth below:

1. Circuit City Stores, Inc. and certain of its affiliated entities (collectively, "Debtors") filed a petition for relief on or about November 10, 2008 ("Petition Date"). After the Petition Date, Debtors continued to be in possession of and to operate their business.
2. On or about January 30, 2009, KSK filed a proof of claim, number 9245 (the "KSK Claim"), setting forth a general unsecured claim in the amount of \$118,388.35

representing sums due under the Debtor's lease with KSK and rejection damages pursuant to 11 U.S.C. § 502(b)(6). A copy of the KSK Claim is attached as **Exhibit A**.

3. The Objection seeks to reduce the KSK Claim to \$8,090.64 based upon the Debtor's books and records. The KSK Claim is based upon pre-petition rent due in the amount of \$8,217.44 and \$110,170.91 for damages pursuant to 11 U.S.C. § 502(b)(6). Rejection damages pursuant to 11 U.S.C. § 502(b)(6) would not be part of the Debtor's books and records. KSK disputes the amount of pre-petition rent owed asserted by the Debtors and the Debtors have not objected to the statutory rejection damages on the merits, and therefore the Objection must be overruled.

4. Based on the above, the Objection should be denied, without further expense, time and effort to the claimant and to the estates of these Debtors.

**WHEREFORE**, KSK respectfully requests that this Court deny the relief requested in the Objection as it relates to the Claims in its entirety; and such other and further relief as is just and proper.

Dated: Richmond, Virginia  
December 28, 2011

Respectfully submitted,

/s/ Kimberly A. Pierro

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*Counsel to KSK Scottsdale Mall LP*

**CERTIFICATE OF SERVICE**

I hereby certify under penalty of perjury that on December 28, 2011, a true and exact copy of the foregoing was served via ECF notification to the following:

Jeffrey N. Pomerantz, Esq.  
Andrew W. Caine, Esq.  
Pachulski Stang Ziehl & Jones LLP  
10100 Santa Monica Boulevard  
Los Angeles, CA 90067-4100

Lynn L. Tavenner, Esq.  
Paula S. Beran, Esq.  
Tavenner & Beran, PLC  
20 North Eighth Street, 2<sup>nd</sup> Floor  
Richmond, VA 23219

/s/ Kimberly A. Pierro  
Counsel

**DECLARATION**

I declare under penalty of perjury and pursuant to 28 U.S.C. § 1746 that to the best of my knowledge the foregoing is true and correct.

Dated: December \_\_, 2011

**KSK SCOTTSDALE MALL LP**

BY: SCHOTTENSTEIN REALTY, LLC

By: 

Name: JAMES A. FLEMING

Title: EXECUTIVE VICE PRESIDENT  
+ CFO

**Exhibit A**

# 9245

B 10 (Official Form 10) (12/07)

UNITED STATES BANKRUPTCY COURT FOR THE EASTERN DISTRICT OF VIRGINIA		PROOF OF CLAIM
<p style="text-align: center;"><b>Debtor against which claim is asserted: (Check only <u>one</u> box below:)</b></p> <div style="display: flex; flex-wrap: wrap;"> <div style="width: 33%;"> <input checked="" type="checkbox"/> Circuit City Stores, Inc. (Case No. 08-35653)  <input type="checkbox"/> Circuit City Stores West Coast, Inc. (Case No. 08-35654)  <input type="checkbox"/> InterTAN, Inc. (Case No. 08-35655)  <input type="checkbox"/> Ventoux International, Inc. (Case No. 08-35656)  <input type="checkbox"/> Circuit City Purchasing Company, LLC (Case No. 08-35657)  <input type="checkbox"/> CC Aviation, LLC (Case No. 08-35658)                 </div> <div style="width: 33%;"> <input type="checkbox"/> CC Distribution Company of Virginia, Inc. (Case No. 08-35659)  <input type="checkbox"/> Circuit City Stores PR, LLC (Case No. 08-35660)  <input type="checkbox"/> Circuit City Properties, LLC (Case No. 08-35661)  <input type="checkbox"/> Orbyx Electronics, LLC (Case No. 08-35662)  <input type="checkbox"/> Kinzer Technology, LLC (Case No. 08-35663)  <input type="checkbox"/> Courchevel, LLC (Case No. 08-35664)                 </div> <div style="width: 33%;"> <input type="checkbox"/> Abbott Advertising, Inc. (Case No. 08-35665)  <input type="checkbox"/> Mayland MN, LLC (Case No. 08-35666)  <input type="checkbox"/> Patapasco Designs, Inc. (Case No. 08-35667)  <input type="checkbox"/> Sky Venture Corporation (Case No. 08-35668)  <input type="checkbox"/> XSSuff, LLC (Case No. 08-35669)  <input type="checkbox"/> PRAHS, INC. (Case No. 08-35670)                 </div> </div>		
<p><b>NOTE:</b> This form should not be used to make a claim for administrative expenses arising after the commencement of the case. A request for payment of an administrative expense may be filed pursuant to 11 U.S.C. § 503(a).</p>		
<p><b>Name of Creditor (the person or other entity to whom the debtor owes money or property):</b>  <b>KSK SCOTTSDALE MALL LP</b></p>		<input type="checkbox"/> Check this box to indicate that this claim amends a previously filed claim.  <p><b>Court Claim Number:</b> _____ (If known)</p> <p><b>Filed on:</b> _____</p>
<p><b>Name and address where notices should be sent:</b></p> <div style="display: flex; justify-content: space-between;"> <span><b>NameID: 4542680</b></span> <span><b>PackID: 218842</b></span> </div> <p style="text-align: center; margin-top: 10px;"> <b>KSK SCOTTSDALE MALL LP</b>  <b>1800 MOLER RD</b>  <b>COLUMBUS OH 43207</b>  <b>Attention: Legal Dept</b> </p> <p style="text-align: right; margin-top: 10px;"> <b>Telephone number: (614) 449-4831</b> </p>		
<p><b>Name and address where payment should be sent (if different from above):</b></p> <p style="text-align: center; margin-top: 10px;"> <b>Telephone number:</b> </p>		<input type="checkbox"/> Check this box if you are aware that anyone else has filed a proof of claim relating to your claim. Attach copy of statement giving particulars.  <input type="checkbox"/> Check this box if you are the debtor or trustee in this case.
<p><b>1. Amount of Claim as of Date Case Filed:</b>      \$ <u>118,388.35</u></p> <p>If all or part of your claim is secured, complete item 4 below; however, if all of your claim is unsecured, do not complete item 4.</p> <p>If all or part of your claim is entitled to priority, complete item 5.</p> <p><input type="checkbox"/> Check this box if claim includes interest or other charges in addition to the principal amount of claim. Attach itemized statement of interest or charges.</p>		
<p><b>2. Basis for Claim:</b> <u>pre-petition rent &amp; 11 U.S.C. 502(b)(6)</u> (See instruction #2 on reverse side.)</p>		<p><b>5. Amount of Claim Entitled to Priority under 11 U.S.C. § 507(a). If any portion of your claim falls in one of the following categories, check the box and state the amount.</b></p> <p>Specify the priority of the claim.</p> <div style="margin-top: 10px;"> <input type="checkbox"/> Domestic support obligations under 11 U.S.C. § 507(a)(1)(A) or (a)(1)(B).  <input type="checkbox"/> Wages, salaries, or commissions (up to \$10,950*) earned within 180 days before filing of the bankruptcy petition or cessation of the debtors business, whichever is earlier — 11 U.S.C. § 507(a)(4).  <input type="checkbox"/> Contributions to an employee benefit plan — 11 U.S.C. § 507(a)(5).  <input type="checkbox"/> Up to \$2,425* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use — 11 U.S.C. § 507(a)(7).  <input type="checkbox"/> Taxes or penalties owed to governmental units — 11 U.S.C. § 507(a)(8).  <input type="checkbox"/> Other - Specify applicable paragraph of 11 U.S.C. § 507(a)(____).                 </div> <p style="text-align: right; margin-top: 10px;"> <b>Amount entitled to priority:</b>                      \$ _____                 </p> <p style="font-size: x-small; margin-top: 10px;">                     *Amounts are subject to adjustment on 4/1/10 and every 3 years thereafter with respect to cases commenced on or after the date of adjustment                 </p>
<p><b>3. Last four digits of any number by which creditor identifies debtor:</b> _____</p> <p><b>3a. Debtor may have scheduled account as:</b> _____ (See instruction #3a on reverse side.)</p>		
<p><b>4. Secured Claim (See instruction #4 on reverse side.)</b>                      Check the appropriate box if your claim is secured by a lien on property or a right of setoff and provide the requested information.</p> <p><b>Nature of property or right of setoff:</b>    <input type="checkbox"/> Real Estate    <input type="checkbox"/> Motor Vehicle    <input type="checkbox"/> Other</p> <p><b>Describe:</b></p> <p><b>Value of Property:</b> \$ _____ <b>Annual Interest Rate:</b> ____ %</p> <p><b>Amount of arrearage and other charges as of time case filed included in secured claim,</b></p> <p><b>If any:</b> \$ _____ <b>Basis for perfection:</b> _____</p> <p><b>Amount of Secured Claim:</b> \$ _____ <b>Amount Unsecured:</b> \$ _____</p>		
<p><b>6. Credits:</b> The amount of all payments on this claim has been credited for the purpose of making this proof of claim.</p> <p><b>7. Documents:</b> Attach redacted copies of any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements or running accounts, contracts, judgments, mortgages, and security agreements. You may also attach a summary. Attach redacted copies of documents providing evidence of perfection of a security interest. You may also attach a summary. (See definition of "redacted" on reverse side.)</p> <p><b>DO NOT SEND ORIGINAL DOCUMENTS. ATTACHED DOCUMENTS MAY BE DESTROYED AFTER SCANNING.</b></p> <p>If the documents are not available, please explain:</p>		
<p><b>Signature:</b> the person filing this claim must sign it. Sign and print name and title, if any, of the creditor or other person authorized to file this claim and state address and telephone number if different from the notice address above. Attach copy of power of attorney, if any.</p> <p style="margin-top: 20px;"> </p> <p style="text-align: center; margin-top: 10px;"> <b>Kimberly A. Pierro, Counsel for KSK Scottsdale Mall LP</b> </p>		<p style="text-align: center; font-size: 2em; font-weight: bold; margin: 0;">RECEIVED</p> <p style="text-align: center; font-size: 1.2em; margin: 5px 0;">JAN 30 2009</p> <p style="text-align: center; font-weight: bold; margin: 0;">KURTZMAN CARSON CONSULTANTS</p>

Penalty for presenting fraudulent claim: Fine of up to \$500,000 or imprisonment for up to 5 years, or both. 18 U.S.C. §§ 152 and 3571.



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